

\* E-filed on 10/27/06 \*

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 INC.

ORIGINAL  
 FILED

OCT 26 2006

RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 (San Jose Division)

IN RE

CYGNUS TELECOMMUNICATIONS  
 TECHNOLOGY, LLC, PATENT  
 LITIGATION

) Case No. MDL-1423 RMW  
 )  
 ) AND ORDER  
 ) STIPULATION TO ALTER DATES  
 )  
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 )  
 )

Defendants, through Liaison Counsel, and Plaintiff seek to slightly alter the dates set forth in the court's Order dated August 21, 2006. All dates set prior to October 24, 2006, have been met, and the October 27 deadline for Plaintiff to submit its claim construction brief remains as set in the August 21 Order. Thus, there is no change in the due dates set on page 2 of the Order.

As to the table on page 3 of the August 21 Order, Defendants seek to separate out motions for summary judgment on invalidity from motions for summary judgment on infringement. Defendants propose to submit three joint motions on invalidity on October 27, 2006, according to the first date on page 3. One motion will relate to issues under 35 U.S.C. §102; a second will relate to issues under §103; and a third will relate to issues under §112. The preliminary invalidity contentions of Defendants raised over forty different invalidity issues. Cygnus attempted to remove the issues raised in the two Reexamination proceedings from

STIPULATION TO ALTER DATES

consideration at the November 20 hearing, but that motion was denied without prejudice. In order to allow Plaintiff to see whether any of the forty-odd defenses may be dropped, the parties stipulate that Plaintiff shall have until November 3, 2006, to file its motions regarding validity. This stipulation balances the court's provision of a week after Plaintiff's claim construction brief for Defendants to submit a claim construction brief in the second box of page 3 of the order. Plaintiff will file its oppositions to the three invalidity briefs on November 10, rather than on November 3 as specified in the table on page 3 of the Order. Also on November 10, Plaintiff will reply to the claim construction opposition that Defendants filed on November 3.

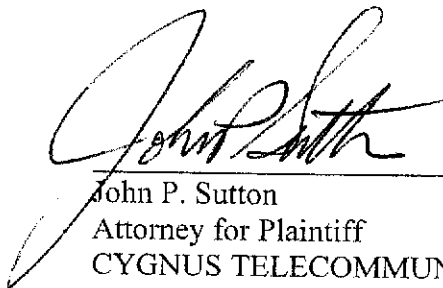
Using the tabular format of the August 21 Order, the parties stipulate to the following:

October 27, 2006	Plaintiff's claim construction brief
October 27, 2006	Defendants' summary judgment motions on invalidity
November 3, 2006	Defendants' claim construction brief
November 3, 2006	Plaintiff's opposition to invalidity motions
November 3, 2006	Defendants' summary judgment motions on noninfringement
November 10, 2006	Plaintiff's reply claim construction brief
November 10, 2006	Plaintiff's opposition to infringement motions
November 10, 2006	Defendants' reply on invalidity

None of the changes affect the hearing date of November 20, 2006.

STIPULATED ON BEHALF OF PLAINTIFF:

October 25, 2006



John P. Sutton  
Attorney for Plaintiff  
CYGNUS TELECOMMUNICATIONS  
TECHNOLOGY, LLC.

10/25/06  
Date

  
Kieran Fallon  
Liaison Counsel and  
Attorney for Interactive Media Technologies, Inc.

THE PARTIES HAIVING STIPULATED, IT IS SO ORDERED.

The courthouse will be closed on Nov. 10, 2006 for Veterans' Day. The court's Oct. 26, 2006 order is vacated. If defendants file a motion to dismiss for lack of subject-matter jurisdiction by November 3, 2006, any opposition shall be due Nov. 9, any reply shall be due Nov. 12, and a hearing shall be held on Nov. 17, 2006.

10/27/06  
Date

  
Ronald M. Whyte  
United States District Judge

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